

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RUSSELL ARCHIBALD,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 04-10503-MEL
)	
UNITED STATES DEPARTMENT OF)	
HOUSING AND URBAN DEVELOPMENT,)	
)	
Defendant.)	

UNITED STATES'S CROSS-MOTION TO DISMISS, OR,
IN THE ALTERNATIVE, TO REQUIRE THE PLAINTIFF
TO EFFECT PROPER SERVICE ON THE DEFENDANT

The United States of America moves to dismiss the Complaint, pursuant to Rule 12(b)(5) of the Federal Rules of Civil Procedure, for insufficiency of service of process.

Alternatively, if the Court declines to dismiss the complaint, the Court should require the plaintiff to effect proper service on the defendant within 20 days, and if proof of proper service is not submitted within 10 days thereafter, the Court should then dismiss the case against the United States. The reasons for this motion are set forth more fully in the accompanying Opposition to Plaintiff's Request for Default and Memorandum in Support of the United States's Cross-Motion to Dismiss, or, in the Alternative, to Require the Plaintiff to Effect Proper Service on the Defendant.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney
Moakley Federal Courthouse
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Boston, MA 02210
(617) 748-3398

Dated: April 4, 2006

CERTIFICATION UNDER L.R. 7.1

I certify that in accordance with Local Rule 7.1 I have attempted to confer with the *pro se* Plaintiff in order to resolve the issues addressed in this Motion but was unable to reach him.

/s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

Suffolk, ss.

Boston, Massachusetts
April 4, 2006

I certify that on April 4, 2006, I caused a copy of the foregoing Motion to be served on Plaintiff, Russell Archibald, 9 Norwich Drive, Johnston, RI 02919, by first class mail, postage pre-paid.

/s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney